



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIFTH SECTION

CASE OF KYRIAN v. THE CZECH REPUBLIC

(Application no. 15956/23)

JUDGMENT

Art 8 • Private life • Refusal to grant applicant contact rights in respect of his son, of whom he is not the legal father, and to have information provided about him • Domestic courts took adequate measures and adduced sufficient reasons for refused contact rights • Sufficient reasons adduced for refusal to order child's legal parents to provide information • Decision-making process offered requisite protection of applicant's interests safeguarded by Art 8 • Right to information about a child could be granted as an autonomous right, independent of personal contact under domestic law, respecting the requirement of an individualised approach under Art 8 • Impugned decisions fairly balanced competing interests at stake and pursued the child's best interests

Prepared by the Registry. Does not bind the Court.

STRASBOURG

6 November 2025

FINAL

06/02/2026

*This judgment has become final under Article 44 § 2 of the Convention.
It may be subject to editorial revision.*

In the case of Kyrian v. the Czech Republic,

The European Court of Human Rights (Fifth Section), sitting as a Chamber composed of:

María Elósegui, *President*,

Kateřina Šimáčková,

Georgios A. Serghides,

Gilberto Felici,

Andreas Zünd,

Diana Sârcu,

Mykola Gnatovskyy, *judges*,

and Victor Soloveytschik, *Section Registrar*,

Having regard to:

the application (no. 15956/23) against the Czech Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Czech national, Mr David Kyrian (“the applicant”), on 6 April 2023;

the decision to give notice of the application to the Czech Government (“the Government”);

the parties’ observations;

Having deliberated in private on 30 September 2025,

Delivers the following judgment, which was adopted on that date:

INTRODUCTION

1. The application concerns the refusal by the domestic courts to grant the applicant contact rights in respect of his son, of whom he is not the legal father, and to have information provided to him about the child. It raises issues under Article 8 of the Convention.

THE FACTS

2. The applicant was born in 1982 and lives in Dublovice. He was represented by Mr P. Škopek, a lawyer practising in Příbram.

3. The Government were represented by their Agent, Mr P. Konůpka, of the Ministry of Justice.

4. The facts of the case may be summarised as follows.

5. The applicant is the father of a child born in December 2013 from an extramarital relationship with the mother which started in 2012. By reason of legal presumption, the mother’s then husband became the child’s legal father and the child lived with his legal parents. The applicant’s biological paternity was established by a DNA test which he had taken, on his own initiative, in 2015.

I. BACKGROUND OF THE CASE

6. Until February 2016 the applicant was able to see his son two to four times per month when the mother visited him.

7. In April 2016 the applicant lodged a claim with the Příbram District Court, seeking to be granted contact rights in respect of his son under Article 927 of the Civil Code. During a subsequent hearing, the applicant and the child's legal father stated that their relationship was conflictual.

8. By a provisionally enforceable judgment of 18 May 2016, the court, finding that the applicant and his son had developed a positive relationship and that their contact had been interrupted by a decision of the mother, granted the applicant the right to see his son every Wednesday afternoon and every second Sunday during the summer holidays. Following an appeal by the mother and the legal father, the judgment was upheld by the Prague Regional Court on 9 November 2016. Calling on the applicant and the child's legal parents to adopt a sensitive attitude and to consolidate their relationships in the interests of the child, the court observed that there had been an emotional bond between the applicant and his son, the strength of which, however, could not be established. At the same time, it acknowledged that the child had the right to know his biological father and to have regular personal contact with him.

9. It follows from the Government's observations and documents submitted by them that during his visits with the child, conflicts repeatedly occurred between the applicant and the mother, which led them to arrange, in July and August 2016, several supervised visits in a neutral environment. From September 2016 until November 2017 the applicant's visits with his son took place mostly as determined by the above-mentioned judgment, but a worsening of the child's psychological condition was observed.

10. In September 2017 the applicant asked the court to be granted more extensive contact rights in respect of his son. The mother reacted by seeking a prohibition of contact, stating that the applicant was verbally abusive towards her and that the child was refusing the applicant's visits, which made him upset and anxious, and that he had started seeing a psychologist. This was confirmed by the child's legal father, who stated during a hearing that the applicant had also physically assaulted him.

A judgment of 3 October 2017, by which both the applicant's and the mother's requests were dismissed, was quashed by the Regional Court, which found the District Court's findings of fact insufficient to decide on the appropriate extent of the applicant's contact rights; it also noted that the emotional bond between the applicant and his son was weakening and it called on the parties to change their attitude and to follow the psychologist's recommendation to seek counselling. Subsequently, on the District Court's order, the applicant and the legal parents attended a mediation session in April 2018, following which the contact between the applicant and his son

continued without problems until mid-July 2018. By a judgment of 17 July 2018, the District Court approved an agreement reached during the mediation, according to which the applicant was to see his biological son every Wednesday afternoon and every second Sunday during the summer holidays.

11. Subsequently, several visits did not take place on account of the child's refusal and an incident occurred between the applicant and the child's legal parents, in respect of which the police were called. On the child protection authority's recommendations, two supervised visits took place in October 2018 but on both occasions, conflicts arose between the applicant and the child, who could not cope with being separated from the mother.

12. According to a report of 10 October 2018 on the child's visits to a psychologist, the child was strongly attached to his mother and his legal father and interactions with unfamiliar people were very stressful for him. The psychologist considered that imposed contact with the applicant might be the source of the child's difficulties and that he should not be forced into unwanted visits.

13. Following a request by the legal parents in December 2018 that contact between the child and the applicant be prohibited, the Český Krumlov District Court and the České Budějovice Regional Court ruled in 2020 that no contact regime should be set, there being no indication, as required by Article 927 of the Civil Code, that the child had a positive emotional bond with the applicant or that a lack of contact would be harmful to his interests. The courts relied on, *inter alia*, an expert opinion by a clinical psychologist, according to which the child, who suffered from a developmental delay, had been caught in the middle of a relationship triangle involving the applicant and the child's legal parents and mirrored the legal parents' attitude in his relationship with the applicant; he was also very attached to his legal father, who provided him with emotional security. The expert expressed the view that it was in the best interests of the child not to grant any contact rights to the applicant at the material time, at least until after a marital crisis which the legal parents had been experiencing had been resolved. The courts also noted that the applicant had put consistent pressure on the child and his legal parents to assert his contacts rights, exacerbating the conflicts and interfering with the family situation, and this had created too much of a burden for the child to bear, leading him to develop a negative attitude towards the applicant. In the courts' view, it was therefore necessary, and in the child's best interests, to calm the situation, notably through professional help, which the applicant and the legal parents were invited to seek, and to enable the child's mental state to stabilise, bearing in mind that the applicant should certainly take part in his son's life in future.

14. On 13 October 2022 a constitutional appeal lodged by the applicant was dismissed as manifestly ill-founded. The Constitutional Court found that the courts' conclusion that it had not been in the child's best interests to be in contact with the applicant as long as the relationship between the latter and

the legal parents had remained conflictual was carefully reasoned. It observed that if the situation improved, the decision not to set any contact regime could be revised and contact reinstated.

II. PROCEEDINGS GIVING RISE TO THE PRESENT APPLICATION

15. On 23 April 2021 the applicant, represented by counsel, lodged a new application with the court, seeking to be granted the right to see his son every Wednesday afternoon.

16. At a hearing of 24 August 2021, which was attended by the applicant's counsel, the child's legal parents stated that the child was very anxious about the family situation, which was confirmed by a report of a psychologist whom the child was seeing regularly. The child's guardian *ad litem* advised the court to dismiss the applicant's motion.

The court then recommended that an expert psychologist's report be prepared to assess the child's relationship with the applicant and his position as to their contact. In her report of 18 March 2022, the expert observed that the fact that their previous visits had been complicated and that the child had repeatedly witnessed conflicts between the applicant and his legal parents amounted to a traumatic experience which had probably resulted in the child developing a negative attitude towards the applicant. Given that the child suffered from developmental delays, that the family situation was intellectually difficult for him to grasp and that it was not appropriate at the time to force him to meet another person, she did not recommend that the applicant be granted any contact rights, without ruling out a possibility of doing so in future if the applicant were to be more respectful of the child's needs and if a positive bond were to develop between them. In a report dated 20 March 2022, the child's psychologist confirmed that the child was experiencing anxiety attacks when he was in a new environment.

17. At a hearing on 24 March 2022, the applicant insisted on being granted at least the right to contact the child through written communication via the child's guardian *ad litem* and on ordering the legal parents to regularly inform him about the child's development. The legal parents refused that option, asserting that they were trying to stabilise the situation by continuing to live together and to improve the child's mental state. They considered that any form of contact with the applicant would lead to additional emotional distress, pointing out that the conduct of the applicant, who sometimes lingered in front of the child's kindergarten or their house, bordered on stalking. The child's guardian *ad litem* expressed the view that all the applicant's requests should be dismissed as being contrary to the child's best interests.

18. By a judgment of 24 March 2022, the Příbram District Court dismissed the applicant's claim but imposed a warning on the legal parents in respect of their refusal to cooperate and ordered them to respect the applicant's biological parenthood. Referring to the conditions to which

Article 927 of the Civil Code subjected the granting of contact rights to persons socially close to the child, it considered that it would not be in the child's best interests to grant contact rights to the applicant. It noted in this connection that neither the applicant nor the legal parents had followed the repeated calls to respect the child's needs, that the applicant's coercive tactics had made it impossible to deescalate the situation and that the child had a strong emotional bond with his legal parents, whereas his negative attitude towards the applicant had not changed.

As to the right to information about the child's education and state of health, the courts observed that such right was a matter of parental responsibility and that the legal parents were opposed to communicating such information. Furthermore, given the child's current attitude towards the applicant, there was no reason to consider that providing such information would be in the child's best interests.

19. On 12 September 2022 the Prague Regional Court upheld that judgment. As to the applicant's right to information about the child, it considered that, since the applicant was not the holder of parental responsibility, he could have been granted that right only within the framework of the determination of contact rights under Article 927 of the Civil Code. Moreover, given that the child did not demonstrate even a partially positive bond with the applicant and continued to reject him, the court did not find any other reason to conclude that providing the information to the applicant would be in the child's best interests.

20. On 24 January 2023 a constitutional appeal lodged by the applicant was dismissed as manifestly ill-founded. The Constitutional Court (I. ÚS 3463/22) found that the court decisions were duly reasoned and had taken account of all the relevant facts.

III. SUBSEQUENT DEVELOPMENTS

21. The legal parents' marital crisis led to their divorce, which was finalised on 12 April 2022; the legal parents shared joint custody of the child and the family continued to live together. Subsequently, the mother moved out and resumed her relationship with the applicant, who thus had occasional contact with his son through her intermediary.

22. In proceedings for shared custody, brought in 2024 by the mother against the legal father, the child stated that he did not want to see his mother mainly because he feared the applicant. Eventually, the court decided to place the child into the custody of his legal father, with whom the child had a very strong bond. A subsequent application by the mother for contact rights was dismissed on the ground that she was unwilling to meet with her son without the presence of the applicant, towards whom the child still harboured negative emotions.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

I. THE CIVIL CODE (ACT No. 89/2012)

23. Article 927 of the Civil Code provides that persons having a close or distant family relationship with a child, as well as persons socially close to the child, have contact rights in respect of the child if the child has an emotional relationship with them that is not temporary and if it is clear that a lack of contact with those persons would cause harm to the child. The child also has the right to have contact with those persons if they agree to it.

II. DOMESTIC CASE-LAW

24. In its decision no. 26 Co 171/2021 of 5 August 2021 the Hradec Králové Regional Court considered that since the parents' mutual duty to provide information (withing the meaning of Article 890 of the Civil Code) represented a form of indirect (not personal) contact with the child, the law did not *a priori* exclude it in a case where the court prohibited personal contact between a parent and the child. When determining the extent and frequency of the provision of information about the child, the court had to take into account the circumstances of the case and always consider the best interests of the child.

25. In its judgment no. 24 Cdo 3032/2021 of 26 January 2021 the Supreme Court did not consider incorrect a court's decision by which the court had suspended the father's parental responsibility and dismissed his claim to be granted personal contact with his children but ordered the mother to provide the father regular information about their children. It observed that according to the doctrine the parents' duty to provide information was a statutory obligation which formed a part of the right of contact with the child. Unlike the right of contact itself, which was realised through a mutual interaction between the parent and the child, the right to information could be viewed as contact only to a limited extent. The Supreme Court further noted that the provision of information about the child was also considered "contact" in Article 2 of the Convention on Contact concerning Children ("the Contact Convention").

26. In its judgment no. II. ÚS 3122/16 of 16 May 2017 the Constitutional Court noted that in cases where paternity was determined by a legal presumption of marriage, the domestic law did not allow the (putative) biological father to challenge the paternity of the legal father. The issue of contact between the biological father and the child was thus fundamental. In line with the requirements stemming from the Court's case-law, (putative) biological fathers had to have the possibility of establishing a relationship with their child, for example through contact rights granted under Article 927 of the Civil Code; indeed, they could not be completely excluded from the

child's life unless this was justified by important reasons grounded in the child's best interests.

27. In its decision no. III. ÚS 1741/21 of 27 July 2021 concerning the refusal to grant contact rights in respect of a child to the mother's former partner, the Constitutional Court emphasised that under Article 927 of the Civil Code the main determining factor was the child's emotional bond with that person and not the emotional attachment of the latter.

28. In its judgments no. I. ÚS 1081/20 of 30 August 2021 and no. II. ÚS 395/22 of 28 July 2022, which concerned the contact rights of grandparents or other relatives, the Constitutional Court pointed to the need to examine the nature of the relationship between all the persons concerned and to the necessity of taking into account the best interests of the child, which could be undermined by, *inter alia*, the existence of tension, conflicts or strained relations between the child's parents and the relatives seeking contact with the child. It held that, under normal circumstances, the views of the parents who have custody of the child must always be taken into account when determining contact rights of other persons.

29. In its decision no. II. ÚS 3224/20 of 7 February 2022 the Constitutional Court held that a biological father's interest in having his contact rights determined by the court could not outweigh the best interests of the child. It expressed the view that a biological father's interest was stronger if there was also a social bond between him and the child, if he had shown a genuine interest in the child in the past and if the relationship between him and the legal parents was free of conflict; in any case, however, the child's best interests remained the primary consideration.

III. INTERNATIONAL LEGAL INSTRUMENTS

A. United Nations Convention on the Rights of the Child

30. The Convention on the Rights of the Child entered into force for the Czech Republic on 22 February 1993. The relevant parts read as follows:

Article 3

“1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

...”

Article 5

“States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.”

Article 7

“1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.

2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.”

**B. Council of Europe Convention on Contact Concerning Children
 (“The Contact Convention” – CETS No. 192)**

31. The Contact Convention entered into force in respect of the Czech Republic on 1 September 2005. Its object is to determine general principles to be applied to contact orders, to fix appropriate safeguards and guarantees to ensure the proper exercise of contact and the immediate return of children at the end of the period of contact and to establish cooperation between central authorities, judicial authorities and other bodies in order to promote and improve contact between children and their parents and other persons having family ties with children.

32. The relevant provisions read as follows:

Article 2 – Definitions

“For the purposes of this Convention:

A ‘*contact*’ means:

- (i) the child staying for a limited period of time with or meeting a person mentioned in Articles 4 or 5 with whom he or she is not usually living;
- (ii) any form of communication between the child and such person;
- (iii) the provision of information to such a person about the child or to the child about such a person.”

Article 4 – Contact between a child and his or her parents

“1. A child and his or her parents shall have the right to obtain and maintain regular contact with each other.

2. Such contact may be restricted or excluded only where necessary in the best interests of the child.

3. Where it is not in the best interests of a child to maintain unsupervised contact with one of his or her parents the possibility of supervised personal contact or other forms of contact with this parent shall be considered.”

THE LAW

ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

33. The applicant complained, relying on Article 6 of the Convention and several provisions of the United Nations Convention on the Rights of the Child, about the domestic courts’ refusal to grant him contact rights in respect of his son and the right to information about the latter.

34. Being the master of the characterisation to be given in law to the facts of the case (see *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, §§ 114 and 126, 20 March 2018), the Court finds it appropriate to examine the applicant’s complaint under Article 8 of the Convention. The relevant provision reads as follows:

“1. Everyone has the right to respect for his private and family life ...

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

A. The parties’ submissions

35. The applicant submitted that, although the Government had tried to depict him as being problematic and as the sole party responsible for the difficult relationship with his son, the Court should primarily examine the conduct of the domestic authorities and of the child’s legal parents. He argued that at the time when he could still meet with his son, he had been planning to live together with the child’s mother, his visits had gone well and a relationship based on trust had developed between them, which could be characterised as “family life”. The reversal of that situation had to be imputed to the legal parents, specifically to the change of attitude on the part of the mother, to which the courts had eventually reacted by depriving him of contact with and information about his son, without giving sufficient and relevant reasons for that interference. Indeed, strained relations between him and the child’s family could not be the primary reason to deny him his rights.

36. The applicant submitted that a fair balance between the interests of all the persons concerned had not been struck in the present case, due account had not been taken of the best interests of the child and of the latter’s right to know his parents, and the authorities had not taken all the measures that could reasonably be expected of them to secure the development of their relationship. In particular, the courts had not duly considered whether he

might have been granted a separate right to information under Article 927 of the Civil Code, despite the fact that he was not the legal father with parental responsibility and had not been granted contact rights. The applicant maintained that there had been no reasons to deny him such a right.

37. The Government submitted that the applicant's relationship with the child did not fall under the notion of "family life" since, until 2018, that is, until the child had reached the age of five, the applicant had seen him only occasionally and there had been no close personal ties between them. Subsequently, the child had developed a strongly negative attitude towards the applicant, which had been at least partly imputable to the latter's behaviour. The Government did not dispute, however, that the courts' refusal to grant the applicant contact rights and to impose on the child's legal parents the duty to inform him about the child's development had amounted to an interference with the applicant's right to respect for private life.

38. The Government further asserted that, in the present case, the domestic courts had concluded that the conditions set out in Article 927 of the Civil Code, which allowed persons socially close to a child, including the biological father, to apply for contact rights, had not been met. In so doing, they had emphasised that the applicant's son had been confronted, from an early age, with a complex relationship between his biological father (the applicant), his mother and his legal father, which had been marked by verbal and physical abuse and his legal parents' marital crisis. Furthermore, both the applicant and the legal parents had ignored the courts' calls to change their attitude and to seek professional help, and had continued to engage in conflicts, often in the child's presence, thus behaving in a manner contrary to the child's best interests.

39. The Government asserted that the domestic authorities had exercised due diligence and provided support for the applicant's contact with his son by, *inter alia*, arranging for supervised contact and mediation. It had only been in 2020 (see paragraph 13 above), when the child's negative response to the applicant and his poor psychological state had directly endangered his well-being, that the courts had found, after weighing the interests of all those involved, that there had been compelling reasons for not setting any contact regime until the situation had stabilised. Their decisions had thus been driven by the best interests of the child and had prioritised the need to ensure him a stable family environment and to improve his psychological condition. The Government emphasised in this connection that the child had been receiving psychological care since the age of four, that he had suffered from developmental delays and anxiety attacks and that all the experts involved had strongly advised against his being forced into seeing the applicant (the Government referred to *Honner v. France*, no. 19511/16, § 60, 12 November 2020). On the other hand, the courts had not excluded that contact arrangements could be revised at any time in future.

40. The Government further submitted that Article 927 of the Civil Code – referring to “contact” in general terms, which was to be interpreted pursuant to Article 2 (a) of the Contact Convention as also encompassing the provision of information about the child – provided for the possibility of being granted the right to information about the child, either in parallel with personal contact or in the course of direct communication with the child, in lieu of those forms of contact in the event that they had been deemed inappropriate in the particular circumstances of the case. They contended that due consideration had been given to the latter option in the present case. However, the courts had concluded that the same specific facts of the case which had led them to dismiss the applicant’s request for personal contact with the child had also been relevant and central to his right to be provided with information about the child. They had explicitly addressed that issue, adduced sufficient reasons for their decisions and provided the applicant with the necessary protection of his interests (the Government referred, by contrast, to *Fröhlich v. Germany*, no. 16112/15, § 66, 26 July 2018).

41. The Government added that the relationship between the applicant and the child’s legal parents, who would have had to bear the duty to provide him the information sought, had been marked by longstanding conflicts and that the applicant’s often inappropriate behaviour had indicated that he had rather been interested in resuming his relationship with the mother than in connecting with the child. There had thus been exceptional circumstances justifying the decision not to grant the applicant’s request since imposing on the legal parents the duty to inform him could have exacerbated their conflicts and disrupted the stability of the child’s family situation. Recent developments (see paragraph 21-22 above) had shown, nevertheless, that the mother had again been trying to involve the applicant in the child’s life and that the applicant had had access to information about the child through her intermediary.

B. The Court’s assessment

1. Applicability of Article 8 and existence of an interference

42. The Court notes at the outset that, whereas the applicant considered that his relationship with the child fell under the notion of “family life”, the Government submitted that their ties amounted to “private life” within the meaning of Article 8 of the Convention.

43. The Court reiterates that “family life” under Article 8 of the Convention is not confined to marriage-based relationships and may encompass other *de facto* family ties. The existence or non-existence of “family life” for the purposes of Article 8 is essentially a question of fact that depends on the real existence in practice of close personal ties. Although, as a rule, cohabitation may be a requirement for such a relationship, exceptionally other factors may also serve to demonstrate that a relationship

has sufficient constancy to create *de facto* family ties (see *Paradiso and Campanelli v. Italy* [GC], no. 25358/12, § 140, 24 January 2017; *X and Others v. Austria* [GC], no. 19010/07, §§ 95-96, ECHR 2013; and *Vinškovský v. the Czech Republic* (dec.), no. 59252/19, § 40, 5 September 2023). Where the circumstances warrant it, “family life” must extend to the potential relationship which may develop between a child born out of wedlock and the biological father. Relevant factors which may determine the real existence in practice of close personal ties in those cases include the nature of the relationship between the biological parents and a demonstrable interest in and commitment by the father to the child both before and after the birth (see *Schneider v. Germany*, no. 17080/07, § 81, 15 September 2011, with further references).

44. In the present case, the Court must determine whether there was an intended family life between the applicant and the child which triggers the application of Article 8. That provision may, indeed, be applied to the relationship between a child and his or her biological father, who are inalterably linked by a natural bond while their actual relationship may be determined, for practical and legal reasons, by the child’s mother and, if she is married, by her husband (see *Anayo v. Germany*, no. 20578/07, § 60, 21 December 2010). In that connection, the Court observes that the applicant and the child’s mother were in a relationship for several years, that, at least from the applicant’s perspective, they were planning to live together (see paragraph 35 above), and that the mother enabled him to see the child until February 2016. In the Court’s view, the applicant has also sufficiently demonstrated his interest in the child.

45. In view of the foregoing, the Court does not exclude that the applicant’s intended relationship with his biological son amounted to “family life” under Article 8. In any event, the determination of the legal relations between the applicant and the child – that is, whether the applicant had a right to have his contact rights determined by the court and to receive information about his personal circumstances – even if they fell short of family life, concerned an important part of the applicant’s identity and thus his “private life” within the meaning of Article 8 § 1.

46. The domestic courts’ decision not to determine his contact rights and to refuse him information about the child thus amounted to an interference with his right to respect, at least, for his private life (see, *mutatis mutandis*, *Anayo*, cited above, § 62, and *Schneider*, cited above, § 90).

2. *Whether the interference was justified*

47. The Court reiterates that while Article 8 contains no explicit procedural requirements, the decision-making process leading to measures of interference must be fair and such as to afford due respect to the interests safeguarded by Article 8 (see, among other authorities, *Kutzner v. Germany*, no. 46544/99, § 56, ECHR 2002-I).

48. That provision may be interpreted as imposing on member States an obligation to examine on a case-by-case basis whether it is in a child's best interests to allow the biological father to establish a relationship with his child, in particular by granting contact rights (see *Anayo*, cited above, §§ 67-73, and *Fröhlich*, cited above, § 40). Having regard to the great variety of family situations possibly concerned, a fair balancing of the rights of all persons involved necessitates an examination of the particular circumstances of the case (see *Schneider*, cited above, § 100).

49. In the present case the Court is thus called upon to examine whether the domestic courts struck a fair balance between the competing interests and Convention rights at stake, taking into account not only the applicant's right to respect for his private and family life but also the best interests and the rights of the child, under Article 8, and the rights of his mother and his legal father. In doing so, the Court must bear in mind that the child's best interests ought to be paramount and that the State authorities enjoy a wide margin of appreciation in this domain (see, for example, *Callamand v. France*, no. 2338/20, §§ 33-37, 7 April 2022, and *Honner*, cited above, §§ 53-57).

50. The Court reiterates in that connection that the national authorities have the benefit of direct contact with all the persons concerned and that it is not the Court's task to substitute itself for them in the exercise of their responsibilities regarding contact issues or issues concerning information about the child's personal development, but rather to review, in the light of the Convention, the decisions taken by those authorities in the exercise of their power of appreciation (see *Schneider*, cited above, § 94, and *Fröhlich*, cited above, § 60). Restrictions placed by the domestic authorities on parental rights of access call for a strict scrutiny as they entail the danger that the family relations between a young child and a parent would be effectively curtailed (see, *inter alia*, *Elsholz v. Germany* [GC], no. 25735/94, §§ 48-49, ECHR 2000-VIII, and *Anayo*, cited above, § 66). On the other hand, the existing family ties between the spouses and the children they actually care for warrant protection under the Convention (see *Krisztián Barnabás Tóth v. Hungary*, no. 48494/06, § 35, 12 February 2013, and *Mandet v. France*, no. 30955/12, § 56, 14 January 2016).

(a) Complaint concerning the courts' refusal to grant the applicant contact rights

51. The Court notes that under Article 927 of the Civil Code, Czech law gave the applicant the opportunity to have the issue of maintaining contact with his biological son examined by the courts – an opportunity which he made use of. Under that provision, persons socially close to a child may be granted contact rights if the child has an emotional relationship with them that is not temporary and if it is clear that a lack of contact with those persons would cause harm to the child. In the proceedings in question brought by the applicant in 2021 (see paragraph 15 above), the courts concluded that those

conditions had not been met and did not set any contact regime between the applicant and the child. In the Court's view, it is noteworthy that the contested decisions were taken only after other measures – namely regular unsupervised and supervised contact (see paragraphs 8-10 above), a period of no contact regime which was aimed at stabilising the child's mental state (see paragraph 13 above) and the courts' repeated calls on the applicant and the child's legal parents to seek professional guidance and to consolidate their relationship – had failed.

52. It is also of great significance for the Court that, as follows from their decisions (see paragraphs 18-19 above), the Czech courts placed the child's best interests first, as is required by Article 8 of the Convention. Indeed, their conclusion that it would be inappropriate to force the child to have contact with the applicant against his will was made with regard to the child's fragile psychological condition, his difficulties in grasping the strained family situation, his persistent reluctance to see the applicant and the tense relations between the latter and the child's legal parents. In the Court's view, there is nothing to indicate that the findings reached by the domestic courts, which had the benefit of directly hearing the persons concerned and could rely on an expert psychologist's report (see paragraph 16 above), were unreasonable.

53. The Court further notes that the domestic courts never questioned the applicant's role in the child's life and expressly recognised that the applicant might be granted contact rights in future, provided that the relations among all the persons involved improved. Moreover, it appears from the latest developments that the applicant recently had, for a certain period of time, occasional contact with his son through the child's mother after they had resumed their relationship (see paragraphs 21-22 above).

54. As regards the decision-making process, the Court observes, firstly, that the decisions at issue were reached following adversarial proceedings in which the applicant, assisted by counsel, was directly involved and that he was allowed to put forward all of his arguments in support of his motion for contact rights. He also had access to all relevant information that was relied on by the courts. Secondly, the first-instance court heard not only the applicant but also the child's legal parents and his guardian *ad litem* (see paragraphs 16-17 above). Furthermore, in taking its decision to dismiss the applicant's request for contact rights, it had regard to the entire family situation and relied on an expert report by a psychologist.

55. The Court admits that the domestic courts' refusal to grant the applicant contact rights amounts to a serious interference with his rights and that, where the existence of a family bond is established, the State must in principle act in such a way as to allow such bond to develop. In the present case, the Court is satisfied that the domestic courts took adequate measures in this sense (see paragraph 51 *in fine* above) and adduced sufficient reasons for their decision not to set, at the material time, any contact regime (see paragraph 18 above) and that the decision-making process was fair and

afforded due respect to the interests safeguarded by Article 8. The State therefore complied with its positive obligations and struck a fair balance between the interests of all those involved in the proceedings.

56. The applicant's complaint is thus manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

(b) Complaint concerning the courts' refusal to allow the applicant to be provided with information about the child

(i) Admissibility

57. The Court considers that this complaint is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

(ii) Merits

58. The Court recognises, at the outset, that the right to information about a child belongs primarily to those with parental responsibility who are called on to make decisions about the child's upbringing or medical treatment. Nevertheless, it has already found that, for a biological parent whose child was brought up by the legal parents, the issue of receiving information about the child's personal circumstances concerned an important part of his or her identity (see *Schneider*, cited above, § 90).

59. Furthermore, reiterating that the Convention must be interpreted in harmony with the general principles of international law and that account should be taken of any relevant rules concerning in particular the international protection of human rights (see, *inter alia*, *Neulinger and Shuruk v. Switzerland* [GC], no. 41615/07, § 131, ECHR 2010), the Court considers that in matters of contact rights, the obligations that Article 8 imposes on the Contracting States must be interpreted taking into account, in particular, the United Nations Convention on the Rights of the Child (see paragraph 30 above) and the Council of Europe Contact Convention (see paragraphs 31-32 above). In the Court's view, it follows from Article 8 of the Convention, interpreted in the light of Articles 2 (a) (iii) and 4 § 3 of the Contact Convention, that the right to be provided information about a child is an autonomous form of contact which may be granted independently of the right to personal contact, especially if it is not in the best interests of a child to maintain personal contact with his or her parent.

60. Therefore, when considering any motion by which a biological parent seeks the right to information about the child, the domestic authorities must examine the particular circumstances of the case in order to decide whether providing that information would be in the child's best interests (for instance, in order to maintain at least some bond with the biological parent) or whether, at least in this regard, the biological parent's interest had to be considered as

overriding that of the legal parents (see, *mutatis mutandis*, *Schneider*, cited above, § 95).

61. As to the Czech legal system, the Court notes that domestic law and case-law (see paragraphs 23 and 26-29 above) allow persons socially close to the child, including a biological father who is not the legal father, to apply for measures which are aimed at preserving their relationship with the child and encompass in particular personal contact with the child. The Government submitted that Article 927 of the Civil Code, interpreted in the light of the Contact Convention (see paragraph 32 above), additionally provided for the possibility of obtaining information about the child, either in parallel with personal contact or in lieu of it (see paragraph 40 above). This also seems to be the view expressed, in another context, by the domestic courts, in particular by the Supreme Court (see paragraphs 24-25 above), according to which the right to information may be granted on its own, independently of the exercise of the parental responsibility.

62. In the present case, it follows from the impugned decisions (see paragraphs 18-19 above) that the domestic courts considered that the right to information about the child was primarily a matter of parental responsibility, of which the applicant was not a holder. The appellate court then considered that, in such circumstances, the applicant could have been granted the right to information only within the framework of the determination of his personal contact rights under Article 927 of the Civil Code.

63. The Court notes, nevertheless, that the further reasoning adopted by the first-instance and the appellate courts in the applicant's case appears to confirm that, under Czech law, the right to information about a child may also be granted as an autonomous right independent of personal contact (see paragraph 61 above), thus respecting the requirement of an individualised approach under Article 8 of the Convention. Indeed, the courts went on to examine whether, in the particular circumstances of the case where another man was the child's legal father and where the applicant as the biological father did not bear any parental responsibility, providing information to the applicant would be in the child's best interests. The Court observes that, in that connection, the courts attached importance to the fact that the legal parents were opposed to communicating any information to the applicant, whose behaviour in their view bordered on stalking (see paragraph 17 above), and to the child's persistent negative attitude towards the applicant and the absence of any positive bond to him (see paragraphs 18 and 19 above). It also accepts that, in the specific circumstances of the case, the contact rights and the right to information were very much interrelated, which is why the domestic courts may have reasonably considered it appropriate to rely on the same facts when ruling on them. It is apparent from their decisions that they consistently kept in mind the need to preserve the child's psychological condition and the emotional security provided by his legal parents.

64. In this connection, the Court acknowledges that although the right to information about a child is of fundamental importance for the parent who has no physical or direct contact with his or her child, there may be situations in which the denial of that right will better suit the best interests of the child.

65. In the present case, the Court is satisfied that the courts specifically addressed the applicant's right to information about his son and attached weight both to the question whether the obligation to provide him that information would have an impact on the legal parents' right to respect for their family life (contrast *Fröhlich*, cited above, § 66), and to the child's best interests. Referring to its conclusion concerning the applicant's complaint about the courts' refusal to grant him contact rights (see paragraphs 51-55 above), it considers that the impugned decisions fairly balanced the competing interests at stake and pursued the child's best interests.

66. The Court also notes, with regard to the latest developments, that the applicant appears to have recently had access to information about the child through the mother's intermediary (see paragraphs 21-22 and 41 *in fine* above).

67. In view of these considerations, and bearing in mind the Court's subsidiary role and the State's margin of appreciation, the Court is satisfied that the domestic courts adduced sufficient reasons for their refusal to order the child's legal parents to provide the applicant information about the child and that the decision-making process offered the applicant the requisite protection of his interests safeguarded by Article 8.

68. There has accordingly been no violation of Article 8 of the Convention.

FOR THESE REASONS, THE COURT

1. *Declares*, by a majority, the complaint concerning a right to information about the child admissible and the remainder of the application inadmissible;
2. *Holds*, by six votes to one, that there has been no violation of Article 8 of the Convention.

Done in English, and notified in writing on 6 November 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Victor Soloveytchik
Registrar

María Elósegui
President

KYRIAN v. THE CZECH REPUBLIC JUDGMENT

In accordance with Article 45 § 2 of the Convention and Rule 74 § 2 of the Rules of Court, the separate opinion of Judge Serghides is annexed to this judgment.

DISSENTING OPINION OF JUDGE SERGHIDES

1. As indicated in the introductory paragraph of the judgment, the case concerns the refusal by the domestic courts to grant the applicant contact rights in respect of his son, of whom he is not the legal father, and to have information provided to him about the child. As also indicated, it raises issues under Article 8 of the Convention.

2. I respectively disagree with my eminent colleagues in the majority; in this connection, I was the only judge to vote against both points of the operative provisions, namely, first, that the complaint concerning a right to information about the child should be declared inadmissible and the remainder inadmissible, and, second, that there has been no violation of Article 8 of the Convention.

3. In particular, the first of the applicant's complaints concerns the courts' refusal to grant the applicant contact rights; the majority rejected this as manifestly ill-founded (see paragraph 56 of the judgment). As stated in paragraph 55 of the judgment, the Court is satisfied that the domestic courts took adequate measures in this sense (see paragraph 51 *in fine*) and adduced sufficient reasons for their decision not to impose any particular contact arrangement at the material time, and that the decision-making process was fair and afforded due respect to the interests safeguarded by Article 8. Before I set out some reasons why I respectfully disagree with such a conclusion, I should first say that, in view of the absolute deprivation imposed by the domestic courts on the applicant's right to respect for his private and family life, to find such a complaint manifestly ill-founded (and not merely to hold that there has been no violation of Article 8) would undermine the protection afforded by Article 8, unless there existed very exceptional reasons, which, however, was not the case here. With all due respect, I also consider it inconsistent that the applicant's first complaint, which concerns the refusal of any contact between him and his child, is declared manifestly ill-founded, while his other complaint, concerning the refusal to allow him to be provided with information about his child, is admissible.

4. The initial measures to restore contact, especially mediation, proved promising (see paragraph 10); yet, after a single adverse incident, the effort was not renewed. Moreover, although the domestic courts (Příbram District Court and Prague Regional Court) recognised that the influence of the legal parents was harming the child's relationship with his biological father and issued a warning to the legal parents in respect of their refusal to cooperate, ordering them to respect the applicant's biological parenthood (see paragraphs 18-20), no concrete steps were taken to ensure that this interference stopped. In the Article-8 context, the State's duty is not judged solely by the attempt itself, but by sustained and effective action capable of giving the parent-child bond a real chance to survive.

5. Respectfully, the position taken by the domestic courts was contradictory. This is because the domestic courts simultaneously emphasised the principle of non-interference in the child's relationship with his biological father, while denying him the very possibility of any contact. This creates a legal and logical tension and inconsistency, which undermine both consistency and fairness in family law. To be more precise: on the one hand, the domestic courts warned the legal parents not to alienate the child from his biological father, stressing the importance of allowing and fostering contact with the latter; and, on the other hand, the same courts dismissed the biological father's request for contact, thus removing the possibility of any relationship between the biological parent and the child. This was exacerbated by the fact that the applicant was prohibited from receiving any information about his child's whereabouts. This makes the contradiction even more striking. To state this more emphatically, at its core, the contradiction stems from a formal recognition of the biological father's rights *versus* a practical denial of those same rights.

6. This contradiction is not without serious consequences in the present case: it violates the applicant's right to respect for his private and family life; it violates the child's best interests, which include bonds with his biological father, unless this is proven to be harmful (in very exceptional cases); it undermines parental equality; it makes the court's reasoning inconsistent, leading to legal incoherence; by judicially erasing the biological role, it renders meaningless the domestic court's warning to the legal parents; it amounts to an absolute restriction, violating the principle of proportionality; and, lastly, it renders the rights guaranteed by Article 8 not practical and effective, but theoretical and illusory.

7. The court's warning was, in the circumstances, meaningless. Since no type of contact was permitted – letters, calls, video chats, supervised meetings – and the applicant was prohibited from receiving any information about his child's whereabouts, then there was literally nothing for the legal parents to interfere with. The warning therefore becomes empty and illogical. The more absolute the restrictions placed on the biological father, the more absurd the caution given to the legal parents.

8. After – and even before – issuing the legal parents with a warning, the domestic courts took no measures to compel them to comply. But how could compliance have been expected, when the warning, as explained above, was in practice meaningless?

9. As regards the Court's finding in respect of the applicant's second complaint, namely, that there has been no violation of Article 8 on account of the courts' refusal to allow the applicant to be provided with information about his child, I respectfully strongly disagree. Such a refusal was harsh, absolute, unnecessary and contrary to the applicant's right to respect for his private and family life. It was also against the best interests of the child. For

a more thorough reasoning, I refer to my dissenting opinion in *S.J.P. and E.S. v. Sweden*, no. 8610/11, 28 August 2018.

10. I disagree with the judgment's finding that the complaint under Article 6 – which was not in any event substantiated – should be absorbed into the complaint under Article 8 (see paragraphs 33-34 of the judgment). In my view, such an absorption is not possible, as I explained, *inter alia*, in my partly dissenting opinion in *Tomenko v. Ukraine* (no. 79340/16, 10 July 2025, paragraphs 1-6 of the opinion). Since the complaint under Article 6 was not communicated, I consider that there is no point in addressing it in the judgment at all, for that reason alone.

11. Finally, had I not been in the minority, I would have made awards in respect of non-pecuniary damage and the applicant's costs and expenses.